

Submission under 37 C.F.R. §1.114  
Serial No. 10/696,588  
Attorney Docket No. 032072

### REMARKS

Claims 1-21 are pending in the above-identified application.

To expedite prosecution, Applicants amend claims 1, 17, and 21 to clarify that the whole bottom surface of the trench is above an upper surface of the etching stopper film and below the embedded material. Applicants also amend claims 1, 17, and 21 to clarify the step of etching the second interlayer insulating film again by using the hard mask after removing the resist mask and the embedded material. In view of these amendments and the following remarks, Applicants respectfully request that the Examiner allow claims 1-21.

The Examiner previously rejected claims 1-21 under 35 U.S.C. 102(e) as being anticipated by *Watanabe et al.* (U.S. Pat. No. 6,787,907). Anticipation requires the presence in a single prior art reference the disclosure of each and every element of the claimed invention, arranged as in the claim. Here, *Watanabe et al.* does not disclose, for example, *forming a trench in the second interlayer insulating film by etching the hard mask and the second interlayer insulating film, using a resist mask in which an opening for exposing the embedded material is formed, the whole of a bottom surface of the trench being above an upper surface of the etching stopper film and below the embedded material*. For instance, in *Watanabe et al.* Fig. 17AB, only a narrow part of a bottom surface of a trench in the second interlayer insulating film 15 is below the filler 55, and most of the bottom surface is above the filler 55. Therefore, a step or fence will remain after a trench and hole are finally formed. In view of the amendments and above remarks, the rejection is unsupported by the art and should be withdrawn.

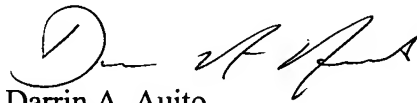
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The Examiner previously rejected claims 1-21 under 35 U.S.C. 103(a) as being unpatentable over APA in view of *Li et al.* (U.S. Pat. No. 6,794,293). As discussed above, Applicants amend claims 1, 17, and 21 to preclude a simultaneous etching. Accordingly, Applicants respectfully request that the Examiner withdraw the rejections.

If this paper is not timely filed, Applicant respectfully petitions for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,

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